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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------------|------------------------|
| 10/539,541 | 11/14/2005 | Peter Bauer | 2002P01555WOUS | 8001 |
| 46726 7590 01/16/2008 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562 | | | EXAMINER WILKENS, JANET MARIE | |
| | | | ART UNIT 3637 | PAPER NUMBER |
| | | | MAIL DATE 01/16/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/539,541 | Applicant(s) BAUER ET AL. | |
| | Examiner Janet M. Wilkens | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 18 is/are allowed.
- 6) ☒ Claim(s) 10-15, 17, 19-24 and 26 is/are rejected.
- 7) ☒ Claim(s) 25 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/9/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The replacement drawings submitted November 9, 2007 have been approved by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 10, it is unclear whether or not the appliance and/or controls is/are to be positively claimed in combination with the door. In the preamble of the claim, only the door is positively claimed; however, the newly added limitation in the body of the claim positively claims the combination. For examination purposes, the combination will be considered the claimed subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 10, 11, 13, 14, 17, 19, 20, 22, 23 and 26 are rejected under 35

U.S.C. 102(b) as being anticipated by McClellan (2,750,901). McClellan teaches a door/closure (40) comprising: an outer wall (140), inner wall (136), insulation (151) there between and a first closure element (141) with a step cross section fastened between the walls, the element as a whole inherently being adjusted relative to the walls during assembly. A portion of the step being parallel to the outer and inner wall. Furthermore, the appliance itself includes an "indicating field" (88).

Claims 10, 11, 13, 14, 17, 19, 20, 22, 23 and 26 are rejected under 35

U.S.C. 102(b) as being anticipated by Nelson et al (4,685,402). Nelson teaches a door/closure (17) comprising: an outer wall (see Fig. 5), inner wall (41), insulation (37) there between and a first closure element (49) with a step cross-section fastened between the walls, the element as a whole inherently being adjusted relative to the walls during assembly. A portion of the step being parallel to the outer and inner wall. Furthermore, the appliance itself includes an "indicating field" (47).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 15, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al (4,685,402) in view of Lindsay (4,667,840). As stated

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above, Nelson teaches the limitations of claims 10 and 19, including a first closure element. Nelson also shows that the element is made of metal. For claims 12 and 21, Nelson fails to teach that the element is made of plastic. The examiner takes Official notice that plastic insulation panels/parts are well known in the art. This notice is backed-up by the reference of Lindsey, wherein the use of plastic/insulation in a fire-resistant housing (see column 4, lines 37-39) is described. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the door of Nelson by using plastic elements therein, e.g. for the first closure element, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, materials readily available, etc. Please note that product by process limitations, e.g. "formed from injection molding", have been given no weight in the claims.

For claims 15 and 24, Nelson fails to teach the specific dimensions of the first closure element. The examiner takes Official notice that plastic insulation panels/parts having various dimensions are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the door of Nelson by using a plastic element with a flank portion at least two centimeters, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, size of the refrigerator as a whole, etc.

Claims 12, 15, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClellan (2,750,901) in view of Lindsey (4,667,840). As stated above, McClellan teaches the limitations of claims 10 and 19, including a first closure

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element. McClellan also shows that the element is made of metal. For claims 12 and 21, McClellan fails to teach that the element is made of plastic. The examiner takes Official notice that plastic insulation panels/parts are well known in the art. This notice is backed-up by the reference of Lindsey, wherein the use of plastic/insulation in a fire-resistant housing (see column 4, lines 37-39) is described. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the closure of McClellan by using plastic elements therein, e.g. for the first closure element, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, materials readily available, etc. Please note that product by process limitations, e.g. "formed from injection molding", have been given no weight in the claims.

For claims 15 and 24, McClellan fails to teach the specific dimensions of the first closure element. The examiner takes Official notice that plastic insulation panels/parts having various dimensions are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the closure of McClellan by using a plastic element with a flank portion at least two centimeters, depending on the desired need of the person constructing the panel, e.g. depending on personal preferences, size of the refrigerator as a whole, etc.

Allowable Subject Matter

Claims 25 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16 and 18 are allowed.

Response to Arguments

Applicant's arguments filed November 7, 2007 have been fully considered but they are not persuasive.

Regarding the 102 rejections over McClellan and Nelson: first, please note that no refrigeration components are being claimed and that McClellan and Nelson teach the structural limitations of the "appliance" as presently claimed. The term "refrigerating appliance" being considered simply nomenclature. Second, an "indicating field" is a broad term, the member 88 of McClellan and the member 47 of Nelson meeting this limitation.

Regarding the Official notice taken in the previous Office action: As stated above, Lindsey teaches the use of plastic/insulation in a fire-resistant housing (see column 4, lines 37-39). Therefore, substituting one known material for another in the housings of McClellan and Nelson being well within the level of one having ordinary skill in the art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

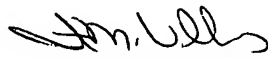
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens
January 14, 2008


JANET M. WILKENS
PRIMARY EXAMINER
